

# HOUSE . . . . . No. 2811

By Mrs. Parente of Milford, petition of Marie J. Parente and others relative to the licensure and regulation of au pair and nanny agencies by the Office of Child Care Services. Children and Families.

## The Commonwealth of Massachusetts

### PETITION OF:

Marie J. Parente	Kathi-Anne Reinstein
Carol A. Donovan	Gale D. Candaras
Paul J. Donato	Barbara A. L'Italien
Christine E. Canavan	Elizabeth A. Poirier
Stanley C. Rosenberg	

In the Year Two Thousand and Five.

AN ACT RELATIVE TO THE LICENSURE AND REGULATION OF AU PAIR AND NANNY AGENCIES BY THE OFFICE OF CHILD CARE SERVICES.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

- 1 SECTION 1. Chapter 28A of the Mass. General Laws is hereby
- 2 amended by adding, after section 11B, the following new section:—
- 3 Section 11C. The Office of Child Care Services, hereafter
- 4 known as the Office, is hereby authorized and directed to estab-
- 5 lish, implement, provide oversight to, and promulgate regulations
- 6 for, a licensure and approval process for employment and place-
- 7 ment agencies as defined in section two of this chapter, who are
- 8 engaged in placing au pairs and nannies, as defined in section two
- 9 of this chapter, in a private residence for the purposes of per-
- 10 forming child care services and duties on a full time or regular
- 11 basis.
- 12 Such agencies shall provide verification to the Office to the
- 13 effect that each au pair and nanny, prior to being placed in a pri-
- 14 vate residence, and wherein stated during said placement, has met
- 15 the specific standards and criteria stated in this section, and shall

16 develop forms and procedures approved by the Office for such  
17 verification. No employment or placement agency shall place any  
18 person defined in section two for the purposes of providing child  
19 care services unless the standards approved by the Office and all  
20 other statutory and regulatory obligations are fulfilled.

21 The Commissioner of the Office, in conjunction with the  
22 employment or placement agency, may exercise discretion and  
23 flexibility in the evaluation and consideration of standards to be  
24 met and in determinations of substitute or alternative criteria  
25 which would fulfill such requirements or their equivalent. The  
26 Commissioner may consider documented training or experience in  
27 a child care program or school, a nursery, or other acceptable par-  
28 ticipation in coursework or experience submitted by the au pair  
29 and nanny through the employment or placement agency as equiv-  
30 alent criteria required to meet educational and training standards.  
31 The Commissioner may accept as fulfillment of the requirements,  
32 and may further approve of, programs of education and training in  
33 child care services, child development, child welfare, or other, or  
34 certification or diplomas or degrees received by au pairs and nan-  
35 nies in their home countries, as approved of and verified by, the  
36 placement or employment agency in its submissions to the Office.

37 The licensing of employment and placement agencies shall be  
38 dependent upon the verification by the employment and placement  
39 agencies, of the following requirements to be met by au pairs and  
40 nannies, which shall be fulfilled in addition to those set forth in  
41 the federal regulations of the USIA, 514.31 Au Pairs, requiring a  
42 thirty-two hour training period, and documented child care experi-  
43 ences constituting two hundred hours. However, if such thirty-two  
44 hour training period becomes fully accredited by a college, uni-  
45 versity, or recognized educational institute, such training hours  
46 may be applied by the Office as partial fulfillment of requirements  
47 in education and training as stated in this section. The Commis-  
48 sioner may ascertain and approve, in conjunction with the place-  
49 ment or employment agencies, that the persons teaching child care  
50 training and educational requirements are qualified professionals.

51 The following standards and criteria shall be required of au  
52 pairs and nannies, subject to conditions set forth in this section:  
53 (a) two formal standard courses, or six semester hours, in early  
54 childhood education, or a certificate or vocational program in

55 early childhood education, or equivalent, either during secondary  
56 educational coursework, or during post-secondary coursework in a  
57 recognized college, university or other educational institution in  
58 child care training, child development, child welfare, or other  
59 appropriate coursework, classes or training, including substitu-  
60 tions in educational courses and/or work experience determined as  
61 acceptable by the Commissioner; (b) participation in at least three  
62 days in-service training and education in early childhood educa-  
63 tion, child development and child welfare and safety, or other such  
64 appropriate child care services training, either midway through the  
65 year of the placement of the au pair, or at intervals during the year  
66 of placement, as approved by the Commissioner, in conjunction  
67 with the employment or placement agency; (c) certification in  
68 CPR and Basic First Aid; (d) screening and background checks  
69 for criminal and juvenile conduct including psychological assess-  
70 ments, health and medical examinations, school records and atten-  
71 dance, which shall be provided by au pairs and nannies or  
72 solicited by the employment or placement agencies through  
73 school records, references from counselors, teachers, or other  
74 school personnel, police authorities, driving records, or through  
75 other means available and as approved by the Commissioner.

76 No au pair or nanny as defined in section two of this chapter,  
77 who is eighteen or nineteen years of age, shall be placed in a pri-  
78 vate residence for the purposes of providing child care to more  
79 than two children who are each under the age of five years.

80 The Commissioner shall provide notification to each employ-  
81 ment and placement agency to be licensed, that they and all per-  
82 sonnel involved with the au pair and nanny programs, are  
83 mandated reporters of child abuse and neglect, as stated in chapter  
84 one hundred and nineteen, section fifty-one A of the Massachu-  
85 setts General Laws.

86 The provisions of this chapter as applied to the licensing of  
87 placement or employment agencies for au pairs and nannies, as  
88 defined in section two, shall take effect on June 30, 2006.

1 SECTION 2. Section 2 of chapter 28A is hereby amended by  
2 adding at the end the following new paragraphs:—

3 For the purposes of this chapter, the following definitions shall  
4 apply.

5 “Foreign or domestic au pair and nanny placement or employ-  
6 ment agency” — any educational or cultural foundation, institu-  
7 tion, agency, company or otherwise named, which for a fee or  
8 other payment, procures, solicits, or attempts to procure or solicit,  
9 from outside or within the commonwealth and from outside or  
10 within the United States, persons who enter through a J Exchange  
11 Program visa, or who enter through any other visa, or to whom  
12 such persons seek application, for the purposes of placement  
13 and/or employment in a private residence in the commonwealth,  
14 to act in the capacity of providing child care services as an au pair  
15 or nanny, either while living in the home or by providing child  
16 care in the home and living without the home, on a full time or  
17 regular basis.

18 “Au Pair” — any person, ages 18-26, who, under the auspices  
19 of a cultural or educational agency or foundation or other such  
20 entity, enters the United States through an "exchange visitors" visa  
21 program, to be placed in a private residence in the commonwealth  
22 for the purposes of performing child care services and duties, in  
23 the capacity of a primary child care worker on a full-time or reg-  
24 ular basis.

25 “Nanny” — any person 18-26, who is placed by an agency or  
26 company in a private residence, and who enters the United States  
27 and the commonwealth through any visa or is a citizen of the  
28 United States and resides in the commonwealth, and who lives  
29 within or without the home, for the purposes of performing child  
30 care services and duties, in the capacity of a primary child care  
31 worker on a full time or regular basis.

1 SECTION 3. Section 4 of chapter 28A is hereby amended by  
2 adding, in subsection (c), after the words, “family day care sys-  
3 tems”, the following words, “and au pair and nanny agencies as  
4 defined in section two of this chapter,”.

1 SECTION 4. Section 11 of chapter 28A is hereby amended by  
2 adding, under subsection (a), after the words, “temporary shelter  
3 facility”, the following words, “or placement or employment  
4 agency as defined in section two of this chapter.”

1     SECTION 5. Section 10B of chapter 28A is hereby amended by  
2 adding at the end, the following paragraphs:—

3     Au Pair and Nanny Agencies, as defined in section two of this  
4 chapter, shall be required to provide quarterly reports to the Office  
5 of Child Care Services which shall include: a. the location and  
6 address of each au pair or nanny placement; b. the total number of  
7 au pairs or nannies placed within the commonwealth and the areas  
8 of the state in which they are placed; c. any change in placement  
9 or disrupted placement, or, removal of an au pair from a place-  
10 ment and the reasons for the change or removal; the new place-  
11 ment location, if applicable; d. the dates of placement for each au  
12 pair or nanny and the duration of the placement; e. the numbers of  
13 children and their ages in the care of each au pair or nanny; f. the  
14 number of hours required for each au pair or nanny to provide  
15 child care, on a weekly basis; g. a summary of the training and  
16 education and other requirements to be met under this Act, of each  
17 au pair and nanny placed, and the location and duration of the  
18 education and training or other requirement; h. the number of  
19 hours of in-service training to be required of each au pair or  
20 nanny, who will provide the training and when it will occur during  
21 the placement. The au pair or nanny agency shall submit to the  
22 Office, prior to any placement of an au pair or nanny, documenta-  
23 tion of each requirement to be fulfilled by the au pair or nanny  
24 and by the agency itself.

25     The Office shall review all records and documents for meeting  
26 criteria and standards set forth in section 11B of this chapter for  
27 au pair and nanny agencies, as defined in section two of this Act,  
28 at the inception of the licensure and approval process, and there-  
29 after on an annual basis, or more frequently if deemed necessary  
30 by the Commissioner, and shall ascertain by a method developed  
31 by the Office that all requirements and credentials set forth in this  
32 Act have been fulfilled.

33     No au pair or nanny shall be placed in a private residence for  
34 the purposes of providing full time child care or child care on a  
35 regular basis, without meeting all credentials and requirements set  
36 forth in this Act.